

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAMON SCOTT,

Petitioner,

-against-

MICHAEL CAPRA,

Respondent.

ORDER

23 Civ. 3923 (KMK) (AEK)

THE HONORABLE ANDREW E. KRAUSE, U.S.M.J.

On November 6, 2024, the Court issued the following memo endorsement:

Petitioner and Respondent are hereby directed to provide a further status report regarding the progress of the proceedings in the state courts by January 3, 2025, or within one week after the deadline by which an application seeking leave to appeal the denial of the Section 440.10 motion must be filed. It is unclear to the Court what this deadline is as of this date, since Respondent has not indicated whether the Decision and Order of the County Court has been served upon Petitioner, which the Court understands to be the date that triggers the running of the time to appeal. *See* N.Y. Crim. Proc. L. § 460.10. If Respondent has a different position regarding how the deadline for seeking leave to appeal is to be determined, Respondent must submit a letter clarifying this point by November 13, 2024.

ECF No. 19.

Respondent did not file a letter by November 13, 2024, regarding a different deadline for Petitioner to file his application for leave to appeal, nor have the parties filed an update by January 3, 2025. Accordingly, the Court directs Respondent to file a letter **by no later than January 10, 2025**, providing the Court with a further status report regarding the progress of the proceedings in the state courts. The Court reiterates that this matter remains stayed and that a further briefing schedule will be put in place once the additional claims have been exhausted.

The Clerk of Court is respectfully directed to mail a copy of this order to the *pro se* Petitioner.

Dated: January 7, 2025
White Plains, New York

SO ORDERED.

A handwritten signature in black ink, appearing to read "Andrew Krause", with a horizontal line extending from the end of the signature.

ANDREW E. KRAUSE
United States Magistrate Judge